

CHAPTER NO. 90

HOUSE BILL NO. 3208

By Representative Winningham

Substituted for: Senate Bill No. 3162

By Senator Burks

AN ACT to amend Chapter 815 of the Private Acts of 1917; as amended by Chapter 922 of the Private Acts of 1949; Chapter 174 of the Private Acts of 1963; and Chapter 199 of the Private Acts of 1986; and any other acts amendatory thereto, to rewrite the charter of the Town of Byrdstown.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 815 of the Private Acts of 1917, as amended by Chapter 922 of the Private Acts of 1949, Chapter 174 of the Private Acts 1963, and Chapter 199 of the Private Acts of 1986, and any other acts amendatory thereto, is amended in its entirety to read as follows:

Section 1. Corporate Limits

The town of Byrdstown in the County of Pickett, and the inhabits thereof, are hereby constituted a body politic and corporate by the name and style of "Town of Byrdstown," and by that name shall have perpetual succession; shall sue and be sued, plead and be impleaded in all the Courts of law and equity, in all actions whatsoever; may purchase, receive and hold real estate, personal and mixed property in said Town, and sell, lease, and dispose of same for the benefit of the Town; and may purchase, receive, and hold real, personal and mixed property beyond the limits of the Town, to be used for the establishment of a workhouse, or for the purpose of owning, erecting and operating, works for supplying the Town with water and lights, and may have and use a corporate seal and change it at pleasure.

The boundaries of Byrdstown shall be those fixed by Chapter 815 of the Private Acts of 1917, as amended, and as extended and contracted by ordinances of the Town passed under the general law of the state governing annexations and contractions, and any subsequent annexations or detachments of territory made pursuant to law.

Section 2. Governing Body

(a) The governing body of said Town shall be the Town Board, consisting of a Mayor, a Recorder, and three (3) Aldermen. The Recorder and three (3) Aldermen shall be voting members, and the Mayor shall vote only in tie-breaking situations. The term of office shall be four (4) years. The Mayor, Recorder and Aldermen shall be qualified Town voters and bona fide residents within the corporate limits of the Town of Byrdstown and shall be chosen by the qualified voters of the Town of Byrdstown. A further qualification for the office of Mayor

shall be the holding of a high school diploma or equivalent (G.E.D.) and being twenty-one (21) years of age at the beginning of the term.

The term of office of all elected officials shall begin September 1 of the election year for the Town. It shall be a separate election unto itself. Each official of the Town named in this act, before entering into the duties of the office, shall take and subscribe to an oath to faithfully discharge the duties thereof. This oath may be taken before any person authorized by law to administer oaths in Tennessee and, when taken, it shall be filed with the Town Recorder and be made a part of the official Town Minutes. The salary of each elected official shall be as follows: Mayor - thirty four thousand eight hundred dollars (\$34,800) per year; Recorder - four thousand eight hundred dollars (\$4,800) per year; and Aldermen - two thousand four hundred dollars (\$2,400) per year. These salaries shall be paid monthly as a general obligation of the corporation.

(b) The Board shall have the authority to set the salary for the offices of Mayor, Town Recorder and Aldermen in accordance with this section. There shall, however, be no modifications, reductions or increases of salaries during a term of office. Salaries shall be set by the Board during the last year of each term of office for the subsequent term. The authority to set salaries is, however, limited to action no later than six (6) months before the end of the term. The failure to take action to set salaries for the subsequent term in the time frame as described will result in the continuation of the salary amounts.

(c) A quorum will be declared upon the presence at any official meeting of the Board of three (3) voting members of the Board. The Mayor is not considered a voting member of the Board for a quorum.

(1) All resolutions, ordinances, and business of the Town shall require three (3) affirmative votes for passage and/or action. The three (3) affirmative votes may include the tie-breaking vote of the Mayor.

(2) A "pass" vote shall not be counted as an affirmative vote nor a negative vote, and will not be counted with the majority of votes actually cast. A "pass" vote shall, however, be recorded in the official minutes of the Board. A Quorum is required to transact any business of the Town.

(d) The Mayor's position shall be a full-time and elected position. The Mayor shall oversee the day to day operations of the Town. The duties of the Mayor shall be as follows:

(1) Chief Executive Officer of the Town;

(2) Administer the business of the Town;

(3) Make recommendations to the Town Board for improving the quality and quantity of public services to be rendered by the officers and employees to the inhabitants of the Town;

(4) Keep the Town Board fully advised as to the conditions and needs of the Town;

(5) Report to the Town Board the condition of all property, real and personal, owned by the Town and recommend repairs or replacements as needed;

(6) Recommend to the Board and suggest the priority of programs or projects involving public works or public improvements that should be undertaken by the Town;

(7) Recommend specific personnel positions, as may be required for the needs and operations of the Town, and propose personnel policies and procedures for approval by the Board; and

(8) Perform such other duties as may from time to time be designated or required by the Town Board.

(e) The Board shall have full power and authority to appoint and elect all officers, servants and agents of the corporation as it deems necessary, and, within the restrictions of this act, fix the pay and compensation of the same; and the Board shall have the power for sufficient cause, to dismiss and discharge any officer or agent it may appoint, by a majority vote of the Board. In filling vacancies on the Town Board, the remaining Board members shall appoint a person to fill the vacant position for the remaining unexpired term.

(f) The Board shall elect an Alderman to the office of Vice-Mayor, who shall serve as Mayor or Recorder when the Mayor or Recorder is absent or unable to discharge the duties of the office.

Section 3. Mayor-Duties

The Town Board shall have full power and authority by Ordinance within the Town; the Mayor shall be the chief executive officer of the Town, and shall preside at all meetings of the Board and be a voting member in tie-breaking situations only. The Mayor shall from time to time give the Board information in writing or otherwise, relative to the condition of the corporation, and shall recommend for its consideration such measures as the Mayor may deem expedient and beneficial to the interest of the Town. The Mayor shall see to the enforcement of the Ordinances of the Town and to the preservation of the health and peace of the Town. The Mayor shall perform such other duties as may be prescribed by Ordinance of said Town, and not in conflict with the powers herein conferred.

Section 4. General Powers of Mayor and Aldermen

The Town Board, under this Charter may:

(1) Assess, levy and collect taxes for all general and special purposes on all subjects or objects of taxation, and privileges taxable by law for state, county or town purposes;

(2) Adopt classifications of the subjects and objects of taxation that are not contrary to law;

(3) Make special assessments for local improvements;

(4) Contract and be contracted with;

(5) Incur debts by borrowing money or otherwise, and give any appropriate evidence thereof, in the manner hereinafter provided;

(6) Issue and give, sell, pledge or in any manner dispose of, negotiable or non-negotiable interest-bearing or noninterest-bearing bonds, warrants, promissory notes or orders of the Town, upon the credit of the Town or solely upon the credit of specific property owned by the Town or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the Town or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two (2) or more such credits;

(7) Expend the money of the Town for all lawful purposes;

(8) Acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge or otherwise dispose of property, real or personal, and any estate or interest therein, within or without the Town or State;

(9) Condemn property, real or personal, or any easement, interest, or estate or use therein, either within or without the Town, for present or future public use; the condemnation shall be effected in accordance with the terms and provisions of Tennessee Code Annotated, Title 29, Chapter 16, or in any other manner provided by law;

(10) Take and hold property within or without the Town or State upon trust, and administer trusts for the public benefit;

(11) Acquire, construct, own, operate and maintain, or sell, lease, mortgage, pledge or otherwise dispose of public utilities or any estate or interest therein, or any other utility of service to the Town, its inhabitants, or any part thereof, and further, may issue debt for these purposes under the Local Government Public Obligations Act, compiled in Tennessee Code Annotated, Title 9, Chapter 21;

(12) Grant to any person, firm, association or corporation (including the Town) franchises for public utilities and public services to be furnished the Town and those therein. The power to grant franchises embraces the power to grant exclusive franchises. Whenever an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation, but also against the Town itself. Franchises may be granted for a period of twenty-five (25) years or less, but not longer. The Town Board may prescribe, in each grant of a franchise, the rate, fares, charges and regulations that may be made by the grantee of the franchise in accordance with state and federal law. Franchises may, by their terms, apply to the territory within the corporate limits of

the Town at the date of the franchises, and as the corporate limits may be enlarged, and to the existing streets, alleys and thoroughfares and to any other streets, alleys and thoroughfares that thereafter may be opened;

(13) Make contracts with any person, firm, association or corporation for public utilities and public services to be furnished the Town and those therein. The power to make contracts embraces the power to make exclusive contracts. When an exclusive contract is entered into, it shall be exclusive against any other person, firm, association or corporation. These contracts may be entered into for a period of twenty-five (25) years or less, but not longer. The Board may prescribe in each such contract entered into the rates, fares, charges, and regulations that may be made by the person, firm, association or corporation with whom the contract is made. Such contracts may, by their terms, apply to the territory within the corporate limits of the Town at the date of the contract, and as the corporate limits may be enlarged, and to the then existing streets, alleys and thoroughfares and to any other streets, alleys and other thoroughfares that thereafter may be opened;

(14) Prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities; compel reasonable extensions of facilities for these services; and assess fees for the use of or impact upon these services. Nothing herein shall be construed to permit the alteration or impairment of any of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under subdivisions (12) and (13);

(15) Establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, public facilities, libraries and squares, wharves, bridges, viaducts, subways, tunnels, sewers and drains within or without the corporate limits, regulate their use within the corporate limits, assess fees for the use of or impact upon such property and facilities, and take and appropriate property therefor under the provisions of Tennessee Code Annotated, §§7-31-107 -- 7-31-111 and 29-16-114, or in any other manner provided by general laws;

(16) Construct, improve, reconstruct and reimprove by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining or otherwise improving any streets, highways, avenues, alleys or other public places within the corporate limits, and assess a portion of the cost of these improvements on the property abutting on, or adjacent to, these streets, highways or alleys under, and as provided by Tennessee Code Annotated, Title 7, Chapters 32 and 33;

(17) Assess against abutting property within the corporate limits the cost of planting shade trees, removing from sidewalks all accumulations of snow, ice and earth, cutting and removing obnoxious weeds and rubbish, street lighting, street sweeping, street sprinkling, street flushing, and street oiling, the cleaning and rendering sanitary or removing, abolishing and prohibiting of closets and privies, in such manner as may be provided by general law or by Ordinance of the board;

(18) Acquire, purchase, provide for, construct, regulate, maintain and do all things relating to all marketplaces, public buildings, bridges, sewers and other structures, works and improvements;

(19) Collect and dispose of drainage, sewage, ashes, garbage, refuse or other waste, or license and regulate their collection and disposal. The cost of collection, regulation or disposal may be funded by taxation as authorized by general laws or private act, special assessment to the property owner, user fees or other charges;

(20) License and regulate all persons, firms, corporations, companies and associations engaged in any business, occupation, calling, profession or trade not prohibited by law;

(21) Impose a license tax upon any animal, thing, business, vocation, pursuit, privilege or calling not prohibited by law;

(22) Define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, business, occupations, callings, trades, use of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the Town, and exercise general police powers;

(23) Prescribe limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people may lawfully be established, conducted or maintained;

(24) Inspect, test, measure and weigh any article for consumption or use within the Town, and charge reasonable fees therefor, and provide standards of weights, tests and measures;

(25) Regulate the location, bulk, occupancy, area, lot, location, height, construction and materials of all buildings and structures, and inspect all buildings, lands and places as to their condition for health, cleanliness and safety, and when necessary, prevent their use and require any alteration or changes necessary to make them healthful, clean or safe;

(26) Provide and maintain charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences and services;

(27) Purchase or construct, maintain and establish a workhouse for the confinement and detention of any person who violates laws within the corporate limits, or contract with the county to keep these persons in the workhouse of the county;

(28)

(A) Enforce any ordinance, rule or regulation by fines, forfeitures and penalties, and by other actions or proceedings in any court of competent jurisdiction;

(B) Establish a Mayor's Court by Ordinance in which the Mayor shall be authorized and required to enforce all Town Ordinances;

(C) No fine may exceed fifty dollars (\$50.00) for any one (1) offense;

(29) Establish schools, determine the necessary boards, officers and teachers required therefor, and fix their compensation, purchase or otherwise acquire land for, or assess a fee for use of, or impact upon, schoolhouses, playgrounds and other purposes connected with the schools, purchase or erect all necessary buildings and do all other acts necessary to establish, maintain and operate a complete educational system within the Town;

(30) Regulate, tax, license or suppress the keeping or going at large of animals within the Town, impound them, and in default of redemption, sell or euthanize them;

(31) Call elections as herein provided; and

(32) Have and exercise all powers that now or hereafter it would be competent for this charter specifically to enumerate, as fully and completely as though these powers were specifically enumerated.

Section 5. Payment of Monies

No moneys shall be paid out of the treasury of the Town except upon the written authorization of the Mayor and Recorder, which shall show for what purpose same is paid.

Section 6. Mayor-Bond

Before entering upon the duties of this office, the Mayor shall enter into a bond in the penal sum of one hundred thousand dollars (\$100,000), payable to the State of Tennessee for the use and benefit of the Town of Byrdstown, and conditioned to faithfully discharge the duties of the office and pay over all monies coming into the Mayor's hands belonging to the Town.

Section 7. Recorder-Duties

It shall be the duty of the Recorder to be present at all meetings of the Board and to keep full and accurate accounts of all business transacted by the Town, to be preserved in permanent form, and to perform such other duties as may be imposed upon the Recorder by this act.

Section 8. Recorder to Keep Accounts of Each Department

It shall be the duty of the Recorder to keep a full and accurate system of accounts with each fiscal department of the Town, showing the receipts and from what source derived and the expenditures and on what account paid, keeping each account separate from each other, and to submit a statement of the same to the Board at the beginning of each quarter.

Section 9. Recorder to Be In Charge of All Finances

The Recorder shall have charge of all the finances of the Town and shall collect the Town taxes, privileges and all other revenues of the Town and no monies shall be paid out by the Recorder except under the written authorization of the Mayor.

Section 10. Recorder-Bond

The Recorder shall perform any other duty which may be imposed by Ordinance of the Town, and before entering upon the discharge of the duties of office, the Recorder shall take and subscribe to an oath before the Mayor or some officer authorized to administer oaths, to faithfully discharge the duties of the office and, in addition, shall enter into a bond in the penal sum of one hundred thousand dollars (\$100,000), payable to the State of Tennessee, for the use and benefit of the Town of Byrdstown and conditioned that the Recorder will faithfully discharge the duties of the office and pay over and account for all monies coming into the Recorder's hands by virtue of the office and belonging to the Town of Byrdstown.

Section 11. Taxes-When Due-Delinquent-Collection

All Town taxes shall be due and payable on the first (1st) day of October of each year for which they are assessed, and shall become delinquent on the first (1st) day of the following March, and it is hereby made the duty of the Recorder to make out a list of delinquent taxes within ten (10) days after they become delinquent and certify same to the Tax Attorney, who shall proceed to collect in accordance with state law. Delinquent taxes may be collected in any manner that is in accordance with state law.

Section 12. Recorder to Keep Tax Books

The Recorder shall make out the tax book each year, and the assessment of property in the Town for each year shall be based upon the assessment made by Pickett County.

Section 13. Elections

Byrdstown Town Elections will be held on the first (1st) Thursday of August, every four (4) years and held the same year as the Tennessee Governor Elections. The Town Election shall be an Election unto itself. All adult citizens who are either a resident of Byrdstown or who are bona fide property owners within the Town limits of Byrdstown and who have been registered as a Town voter at least thirty (30) days prior to the election shall be a qualified voter to vote in the Byrdstown Town Elections. Elections and registration of voters shall be in

accordance with the laws of the State of Tennessee. All candidates for any elected Town office shall be both a qualified Town voter and a bona fide resident of Pickett County, Tennessee, for a period of at least one (1) year prior to election.

SECTION 2. Nothing in this act shall be construed as having the effect of removing any incumbent from office or abridging the term of any official prior to the end of the term for which such official was elected.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall have no effect unless it is approved by a majority of the number of qualified voters of the Town of Byrdstown voting in an election on the question of whether or not the act should be approved. The ballots used in the regularly scheduled May election shall have printed on them a summary of this act and the voters shall vote for or against its approval. The votes cast on the question shall be canvassed and the results proclaimed by the county election commissioners and certified by them to the secretary of state as provided by law in the case of general elections. The qualifications of voters voting on the question shall be the same as those required for participation in general elections. All laws applicable to general elections shall apply to the determination of the approval or rejection of this act.

SECTION 5. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it, but for all other purposes the provisions of the act shall be effective only upon being approved as provided in Section 4.

PASSED: February 14, 2002



JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 20th day of February 2002



DON SUNDQUIST, GOVERNOR